

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7155

BILL NUMBER: HB 1187

NOTE PREPARED: Apr 7, 2011

BILL AMENDED: Apr 4, 2011

SUBJECT: Satellite Manure Storage Structures.

FIRST AUTHOR: Rep. Davis

FIRST SPONSOR: Sen. Gard

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Approval of Construction or Expansion of Satellite Manure Storage Facilities.* This bill provides that after June 30, 2011, a person may not start (1) construction of certain satellite manure storage structures; or (2) expansion of certain satellite manure storage structures that increases manure containment capacity; without obtaining the prior approval of the Department of Environmental Management (IDEM).

Biomass. This bill adds definition of "biomass", "biomass anaerobic digestion facility" (BADF), "biomass gasification facility" (BGF), and "fertilizer material". The bill requires IDEM's approval for construction or expansion of biomass-related structures. The bill requires that prior approval be obtained to construct a BADF or BGF on the premises of a CFO. It provides that a facility for which the only input is biomass is not subject to regulation as a solid waste processing facility, but IDEM may determine whether it be subject to such regulation.

Exemptions. The bill exempts anaerobic digestion and gasification facilities (not biomass-related) that maintain an air permit from having to seek prior approval from IDEM to construct or expand a structure. The bill exempts from the definition of "solid waste" the requirement that certain manures or crop residues are returned to the soil at the point of generation. It provides that a statutory water pollution prohibition is not violated by fertilizer material that (1) is contained in runoff from a storm event or irrigation return flow; (2) enters waters of Indiana as a result of land application of the fertilizer material that is for agricultural purposes, (3) is done at appropriate agronomic rates for proper nutrient uptake in the field, and (4) is documented.

Notices. The bill requires certain guidelines under which IDEM may issue a notice of violation.

State Chemist. The bill provides that the State Chemist may also adopt rules for distribution and use of fertilizer material to protect waters of the state. It adjusts certain restrictions to pollutants that enter the waters of Indiana contained in land applications that comply with rules adopted by the State Chemist. The bill requires the State Chemist to adopt rules before July 1, 2012, concerning the staging and use of organic fertilizer material.

Effective Date: July 1, 2011.

Explanation of State Expenditures: (Revised) *Approval of Construction or Expansion of Satellite Manure Storage Facilities and Biomass Facilities.* Requiring the approval of IDEM for manure storage structures, anaerobic digestion facilities, or gasification facilities will have no significant impact on IDEM. Currently, there are two such facilities in the state.

State Chemist. The bill's requirements are within the State Chemist's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues: (Revised) *IDEM* Applicants would be required to pay a \$100 fee. The amount of revenue that will be generated is unknown and will depend on the number of specific storage structures and biomass facilities that are constructed or expanded. Revenue would be deposited in the Permit Operations Fund, which is used to cover expenses associated with the permit program.

A person who violates the above provision could be liable for a civil penalty not to exceed \$25,000 per day of any violation. IDEM may recover the civil penalty in a civil action commenced in any court with jurisdiction; and request in the action that the person be enjoined from continuing the violation.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue.* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: IDEM, State Chemist.

Local Agencies Affected: Courts.

Information Sources: IDEM, State Chemist.

Fiscal Analyst: Bernadette Bartlett, 317-232-9586.